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## SDI AND “THE COMMON DEFENSE”

by Daniel O. Graham\*

A pretty good case can be made that President Ronald Reagan’s Strategic Defense Initiative, dubbed “Star Wars” by its detractors, will be illegal if ever taken beyond laboratory experimentation. Illegality of the program is argued by Soviet and some American detractors of SDI on the grounds that any development of defenses against ballistic missiles beyond pure research violates a strict interpretation of the Anti-Ballistic Missile Treaty of 1972 (ABM Treaty), and treaties are to be regarded in U.S. jurisprudence as the supreme law of the land.

This very narrow interpretation of the wording or spirit of the ABM Treaty is not generally held, but it appears that a narrow interpretation, disallowing tests of spaceborne components of SDI, is being used by anti-SDI elements to limit the extent of research on new defensive systems.

Senator Sam Nunn (D-Ga.), a lawyer, made himself famous (or infamous depending on one’s political point of view) by maintaining that the Reagan Administration would create a constitutional crisis by adopting a broad rather than narrow interpretation of the language of the ABM Treaty in determining the legality of SDI testing and development.

The ABM Treaty was written, negotiated and ratified on a very broad basis of understanding on the part of American negotiators and ratifying Senators, not a narrow one. The fundamental assumption which underpinned the Treaty was that defenses against nuclear ballistic missiles were (a) infeasible because of technological limitations and (b) undesirable because they destabilized a presumably achievable nuclear standoff based on shared capabilities of the superpowers to slaughter one another. The SDI program relies upon an opposite pair of assumptions: (a) it is technologically possible to defend against nuclear ballistic missiles and (b) such defenses are desirable and stabilizing since they destroy any nuclear aggressor’s confidence in the outcome of its aggression and remove the possibility of nuclear war through accident or rogue nation attack.

There is simply no intellectually legitimate way to argue for both SDI and the ABM Treaty, yet individuals on both sides of the issue have attempted to do so. The Reagan Administration has lacked the political courage to point out the incompatibility of the ABM Treaty and the goals of the SDI program. Anti-SDI spokesmen have lacked the political courage to admit that their opposition has nothing at all to do with the presumed legal sanctity of the ABM Treaty. In fact, members of Congress opposed to SDI voted as a block for an amendment to the authorization bill forcing the Defense Department to adhere to a strict interpretation of the ABM Treaty on the *same day* that they voted unanimously to condemn the Soviet Union for having violated that Treaty.

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“Strategic Defense Initiative” is a typically unhelpful set of words assembled by the federal bureaucracy that tends to mask the fact that a fundamental shift is taking place in U.S. nuclear strategy. SDI harnesses the postnuclear technological revolution (whose wonders include supercomputers, superconductors, and supersensors) to solve the practical dangers and moral and legal dilemmas stemming from the “mutual assured destruction” strategy adopted a quarter century ago by the superpowers.

The policy shift has grown profound. The old paradigm held that we cannot and should not defend the nation in the nuclear era. The new paradigm concludes that we can and we must defend the nation. Advocates of the old paradigm must wrestle with both the inexorable advances of technology and the unsophisticated but automatic preference of ordinary people for protection over sheer vengeance.

It would appear that the anti-SDI forces face a hopeless task. On the technical side they must argue that “it can’t be done” while scientists and engineers prove that it can. On the moral side they must argue that it is better to be prepared to kill Soviet citizens than to defend our own. On the legal side they must argue that a treaty that has been violated by the Soviets takes precedence over the constitutional mandate that the federal government “provide for the common defense.”

That is a hard sell. It would be impossible if it were not for the institutional biases favoring the old paradigm. The Pentagon and many of the makers of modern weaponry are comfortable within the old offense-only paradigm. No part of the Defense Department, including the Strategic Defense Initiative Organization, has the mission of preventing the impact on the United States or any of its allies of a nuclear ballistic missile. The new paradigm is apparently highly unsettling to much of the national security bureaucracy.

Then there is the National Aeronautics and Space Administration (NASA). It is perfectly obvious that the best defenses against nuclear attack will be those based in space. But this proposition causes much turf guarding heartburn in NASA. SDI suggests military encroachment on NASA civilian programs. Many in NASA (with the notable and encouraging exception of Director James Fletcher and former Deputy Hans Mark) actually believe that some palpable difference exists between space technology with military and non-military applications.

The old paradigm advocates have an even more powerful ally—the Democrats who control the United States Congress. Too many Democratic politicians have been influenced by the nuclear freeze movement. Democrats who should have known better yielded to the pressures of the strongest political thrust ever based on the old paradigm. “Freeze or fry” was the battle cry—and it worked for a while.

It worked until SDI came along. And then it collapsed—why? Because SDI exposed its false dilemma. SDI offered a more attractive way to cut the nuclear Gordian knot by utilizing the United States’ technological superiority. Within six months of President Reagan’s March 1983 “Star Wars” speech, the nuclear freeze movement had effectively collapsed.

For Democratic politicians dependent for re-election upon the support of the pacifist left, SDI has presaged disaster for their political ambitions. These politicians enjoy positions on committees of Congress which give the old paradigm supporters a chance to scuttle SDI.

By far the most effective proponent of the old paradigm and the most effective enemy of SDI outside the Soviet Union is the Republican-Democratic team that formulates our arms control policy—George Shultz and Paul Nitze. These two individuals have jeopardized the SDI movement. They have proposed the elimination of the “withdrawal with notice” clause of the ABM Treaty and the addition of a U.S.-Soviet agreement not to withdraw from the Treaty for seven to ten years. Nothing could be more deadly to SDI. If Shultz and Nitze can stall deployment of SDI through negotiations with the Soviets, the bureaucracies and Congress will have an easier job of dismantling development and testing programs.

The primary political wrestling match of the late 1980's, at least in the arena of foreign affairs and national security, has focused on SDI. If the debate continues as it has over the past several years, anti-SDI politics will be characterized by shrillness, phony “science” and a deplorable disregard for veracity—all common characteristics of arguments for a lost cause. Furthermore, the anti-SDI camp will be constantly embarrassed by the precise correlation between their views and those of our Soviet rivals. On legal matters, they will insist that the ABM Treaty is the law of the land. However, in the end they will lose to those who point to the Preamble to the Constitution, and its firm instruction to “provide for the common defense.”

